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REMARKS/DISCUSSION OF ISSUES

The Examiner rejected claims 4, 5, 7, 12-14, 15, 18-20, and 21 under §112 ¶2

The §112 ¶2 rejection of claims 4, 5, 7, 12-14, 15, 18-20, and 21 is traversed.

Claims 4, 12, and 18 have been cancelled, and their subject matter 'moved' to independent claims 1, 9, and 16. This amendment is made, not to avoid any reference, but to expedite prosecution. Applicant notes that the article "a" has been changed to "the" and believes that this obviates the Examiner's rejections.

Claims 5, 13, and 19 have been cancelled, obviating the Examiner's objections.

Claims 5, 13, and 19 have been cancelled, not to avoid any reference or rejection, but to expedite prosecution. Applicants reserve the right to present unamended claims 5, 13, and 19 in a continuation application.

Claims 7, 14, 15, 20, and 21 do not therefore inherit any indefiniteness, and have been amended solely to correct claim dependency and not to avoid any reference. Applicants reserve the right to present unamended claims 7, 14, 15, 20, and 21 in a continuation application.

Withdrawal of the §112 rejections to claims 4, 5, 7, 12-14, 15, 18-20, and 21 is requested.

Claims 1-21 were rejected as anticipated under §102(e) by Laviolette

The §102(e) rejection of claims 1-21 is traversed.

To warrant this §102(e) rejection of pending claims 1-21, Laviolette must show each and every limitation of claims 1-21 in as complete detail as is contained in claims 1-21. See, MPEP §2131. Laviolette does not disclose and teaches away from the claimed terms "receiving at the management server, a test system description, the test system description associated with a functioning system in the distributed network environment." Contrary to the Examiner's assertions, Laviolette does not disclose that the test system description is associated with a functioning system in the distributed network environment.

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The Examiner's argument that the claims "do not recite what a functioning system is" is disingenuous. Those of ordinary skill in the art are well acquainted with the concept of functioning systems, as well as nonfunctioning systems. Indeed, the entire concept of a test system is premised on attempting to determine what is wrong with a nonfunctioning system.

The Examiner's citation to column 6 lines 50-56 and 60-63 is misplaced. Rather than disclose the claimed element, that selection merely discloses that the test station agent monitors the *host system* and reports information to the test center server that stores the information. Laviolette does not disclose that the test system description is associated with a functioning system.

so it is loaded. Upon executing, the test station agent periodically monitors the host system for both software and hardware configuration information and report this back to the test center server 104. The test system main server 108 then stores the hardware configuration data provided by the test station agent software as part of the system profile information 132. The hardware configuration data represents the

Claim 7 requires, inter alia, "determining at least one characteristic of the functioning system at the management agent" which is not disclosed by Laviolette. The Examiner's citation to column 6, lines 48-56 is misplaced. Laviolette does not disclose anything relating to functioning systems – only monitoring a host system for software and hardware configuration information and reporting back to the test center server.

Further, claims 2-3, 6-8, 10-11, 14-15, 17, and 20-21 depend directly or indirectly from claims 1, 9, or 16 respectively, and are therefore patentable over the prior art for at least the same reasons.

Withdrawal of the rejection of claims 1-3, 6-11, 14-17, and 20-21 under U.S.C. §102(e) as being anticipated by Laviolette is therefore respectfully requested.

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CONCLUSION

The Applicant respectfully submits that claims 1-3, 6-11, 14-17, and 20-21 as listed herein fully satisfy the requirements of 35 U.S.C. §§102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested.

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Respectfully Submitted,
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